

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS: 07-0012
Indiana Income Tax
For The Year 2004

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ISSUE

I. Proposed Assessments – Indiana Adjusted Gross Income Tax.

Authority: IC § 6-8.1-5-1(a); IC § 6-8.1-5-1(b)

Taxpayer challenges proposed income tax assessment for 2004.

STATEMENT OF FACTS

In 2004, Taxpayer was issued a Form 1099 for harness racing by Horsemen's Bookkeeper regarding Indiana racing income. The Department of Revenue (Department) conducted an investigation and determined that taxpayer owed state income tax for the year in question.

The protest was assigned to a hearing officer, and an administrative hearing was held. This Letter of Findings was prepared based upon the information contained within taxpayer's file.

I. Proposed Assessments – Indiana Adjusted Gross Income Tax.

DISCUSSION

Taxpayer disagrees with the Department's notice of proposed assessment on the grounds that he never lived or even visited the State of Indiana during 2004.

IC § 6-8.1-5-1(a) states in part that "If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available." The statute *requires* the Department to issue proposed assessments when the Department believes that the taxpayer has underpaid his or her state income tax.

Once the notices of proposed assessments are issued, it is up to the taxpayer to provide information demonstrating that the assessments are incorrect. "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC § 6-8.1-5-1(b). The taxpayer did not provide a corrected 1099 for the year in question, nor did he provide a tax return showing that tax was paid on the racing income earned in Indiana.

Based upon the information contained within taxpayer's file, the Department reasonably believed that taxpayer had not paid tax on the miscellaneous income from 2004.

The Department's proposed assessments were based upon the best information available, taxpayer failed to meet his burden of demonstrating that the proposed assessment was wrong, and taxpayer's protest must be rejected.

FINDING

Taxpayer's protest is denied.

BRK/DK-May 2006